

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

19-CR-74-FPG

GUILLERMO TORRES-ACEVEDO,

Defendant.

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**GOVERNMENT RESPONSE TO DEFENSE OBJECTIONS  
TO PRESENTENCE REPORT**

**PLEASE TAKE NOTICE** that the government hereby adopts all findings of the Revised Presentence Report, dated April 2, 2020, including the Addendum, which addresses the defense's objections to the Presentence Report with respect to sentencing factors in this action.

The government included the defendant's November 26, 2018 arrest in the factual basis of the plea agreement because the defendant's criminal actions the day prior are the basis for the New York state rape charges.

In the plea, the defendant agreed to the sentencing guidelines calculation set forth in the plea agreement and agreed that neither party will advocate or recommend the application of any other Guideline. See Docket 26, paragraph 17. While the government is not going as far to say the defense objections constitute a breach of the plea agreement, the government relied on the terms of the plea, which, in the government's opinion, did not include the

defendant's November 25, 2018 rape as relevant conduct, and thereby triggering Section 5G1.3(c) of the U.S. Sentencing Guidelines.

The defense agreed that the Court is not bound to accept any Sentencing Guidelines calculations set forth in the plea, and the defendant will not be entitled to withdraw the plea of guilty based on the sentence imposed by the Court, or because of the imposition of the sentence of imprisonment concurrently, partially concurrently, consecutively, or partially consecutively with any undischarged term of imprisonment being served by the defendant, or that may be imposed upon the defendant, in the County Court for Genesee County, New York, under Indictment No. 6197. See Docket 26, paragraph 18.

It is therefore respectfully requested that the Court adopt the findings in the Presentence Report and its Addendum at Docket 45.

DATED: Buffalo, New York, April 2, 2020.

JAMES P. KENNEDY, JR.  
United States Attorney

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